

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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H.A., <i>on behalf of himself and his minor child,</i>	:	
G.A.,	:	21 Civ. 4389 (LGS)
Plaintiffs,	:	
	:	<u>ORDER</u>
-against-	:	
	:	
NEW YORK CITY DEPARTMENT OF	:	
EDUCATION et al.,	:	
Defendants.	:	
-----X	:	

WHEREAS, Plaintiffs bring four classes of claims: (1) an appeal of the State Review Officer's ("SRO's") decision as to whether G.A. received a free appropriate public education ("FAPE") pursuant to the Individual With Disabilities in Education Act ("IDEA") for the 2018-19 school year ("Category I"); (2) whether the SRO improperly remanded Plaintiffs' claims of denial of a FAPE for the 2017-18 school year to the Individual Hearing Officer ("IHO") for consideration of additional evidence (the "Remand Proceeding") ("Category II"); (3) whether Defendants denied G.A. required services during the pendency of her administrative proceedings pursuant to 20 U.S.C. § 1415(j) ("Category III") and (4) claims for violation of the Rehabilitation Act, 42 U.S.C. § 1983 and the New York State Education Law ("Category IV").

WHEREAS, the Order, dated July 20, 2021 (Dkt. No. 16), set a summary judgment briefing schedule.

WHEREAS, the parties have submitted a joint letter ("Joint Letter"), in which they do not dispute that some discovery is required for the Category III and Category IV claims (Dkt. No. 17). The parties also note that (1) they have not yet obtained a certified copy of the administrative record in this matter from the SRO and (2) the IHO has adjourned consideration of the merits of the Remand Proceeding for some period of time due to this matter. Plaintiffs request an order (1) directing the SRO to produce the administrative record and (2) directing the

IHO not to consider the merits of the Remand Proceeding until this matter concludes. The parties do not state how long the IHO has agreed to delay the Remand Proceeding, nor do they cite any authority stating that a district court may direct an IHO not to consider a matter. It is hereby

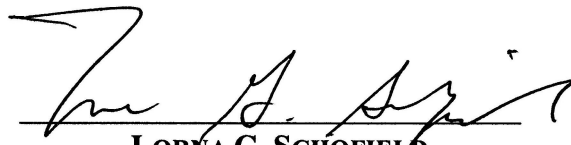
ORDERED that the summary judgment briefing schedule set forth in the July 20, 2021, Order (Dkt. No. 16) is **adjourned** *sine die*. It is further

ORDERED that by **August 20, 2021**, the parties shall submit a proposed Civil Case Management Plan and Scheduling Order, in the format set by the Court,¹ governing discovery of the Category III and Category IV claims. Within two weeks of completion of fact discovery the parties shall jointly propose a summary judgment briefing schedule. It is further

ORDERED that Plaintiffs' request for an order directing the SRO to provide a copy of the administrative record is **denied** without prejudice to renewal in the event it is not timely provided. Plaintiffs shall provide a copy of this Order to the SRO. It is further

ORDERED that by **July 28, 2021**, Plaintiffs shall file a letter, not to exceed three single-spaced pages per the Individual Rules, setting forth any legal authority by which a district court may order the IHO to stay consideration of the merits of the Remand Proceeding. By **July 30, 2021**, Defendants shall file any response.

Dated: July 26, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

¹ The form is available at: <https://www.nysd.uscourts.gov/hon-lorna-g-schofield>.